

## REMARKS

Claims 1-3 and 5-23 are pending in the application. Claims 1, 7, 15, and 20 are independent, and claims 2-3, 5-6, 8-14, 16-19, 16-17, and 21-23 are dependent.

Claims 1, 7, 15, and 20 have been amended. Support for the amendments can be found in the Specification at page 7, lines 19-25.

These changes are believed to introduce no new matter and their entry is respectfully requested.

### Rejection of Claims 1 and 7 Under 35 U.S.C. §102(e)

The Examiner rejected claims 1 and 7 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,111,673 to Chang et al. (hereinafter "Chang") and U.S. Patent Publication No. 2001/0024305 to Nishimoto (hereinafter "Nishimoto"). A claim is anticipated only if each and every element of the claim is found in a reference. (M.P.E.P. § 2131 *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). The identical invention must be shown in as complete detail as is contained in the claim. *Id. citing Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)). Applicant respectfully traverses the rejection.

Amended claim 1 recites "assigning a set of switching wavelengths to traffic in the network; optically switching traffic that is able to be switched using switching wavelengths between nodes using the set of switching wavelengths; assigning a set of routing wavelengths to traffic that cannot be switched using switching wavelengths; and routing the traffic that cannot be switched using the routing wavelengths." In contrast, Chang does not disclose at least this embodiment of the claimed invention. Applicant respectfully submits therefore that Chang fails to show the identical invention in as complete detail as required by M.P.E.P. § 2131 and that claim 1 is thus patentable over Chang. Applicant respectfully submits that claims 1-6 properly depend from patentable claim 1 and thus are patentable as well. (M.P.E.P. §2143.03.)

Amended claim 7 recites “labeling traffic to be switched in the network with a set of switching wavelengths; labeling traffic to be routed in the network with a set of routing wavelengths; optically switching the traffic labeled with switching wavelengths; and routing the traffic labeled with routing wavelengths if the traffic labeled with switching wavelengths cannot be optically switched.” In contrast, Nishimoto fails to disclose at least this embodiment of the claimed invention. Applicant respectfully submits therefore that Nishimoto fails to show the identical invention in as complete detail as required by M.P.E.P. § 2131 and that claim 7 is thus patentable over Nishimoto. Applicant respectfully submits that claims 8-14 properly depend from patentable claim 7 and thus are patentable as well. (M.P.E.P. §2143.03.)

Rejection of Claims 7, 15, and 20 Under 35 U.S.C. §102(b)

The Examiner rejected claims 1 and 7 under 35 U.S.C. §102(b) as anticipated by U.S. Ghani “Lambda-Labeling: A framework for IP-Over-WDM Using MPLS (hereinafter “Ghani”). Applicant respectfully traverses the rejection.

Amended claim 7 recites “labeling traffic to be switched in the network with a set of switching wavelengths; labeling traffic to be routed in the network with a set of routing wavelengths; optically switching the traffic labeled with switching wavelengths; and routing the traffic labeled with routing wavelengths if the traffic labeled with switching wavelengths cannot be optically switched.” In contrast, Ghani fails to disclose at least this embodiment of the claimed invention. Applicant respectfully submits therefore that Ghani fails to show the identical invention in as complete detail as required by M.P.E.P. § 2131 and that claim 7 is thus patentable over Ghani. Applicant respectfully submits that claims 8-14 properly depend from patentable claim 7 and thus are patentable as well. (M.P.E.P. §2143.03.)

Amended claim 15 recites “switching logic to optically switch traffic carried on a set of switching wavelengths; routing logic coupled to the switching logic to route traffic carried on a set of routing wavelengths; and control logic coupled between the switching logic and the routing logic for receiving information carried on a set of control wavelengths to determine whether all traffic is to be directed to the switching logic or a portion of the traffic

that cannot be directed to the switching logic is to be directed to the routing logic.” In contrast, Ghani fails to disclose at least this embodiment of the claimed invention. Applicant respectfully submits therefore that Ghani fail to show the identical invention in as complete detail as required by M.P.E.P. § 2131. Applicant respectfully submits that claims 16-19 properly depend from patentable claim 15 and thus are patentable as well. (M.P.E.P. §2143.03.)

Amended claim 20 recites “a first hybrid node to label switched traffic with a set of switching wavelengths, to attempt to send the switched traffic to at least one secondary hybrid node via the set of switching wavelengths, to label traffic that cannot be sent to the at least one secondary hybrid node using the set of switching wavelengths with a set of routing wavelengths, to send the traffic that cannot be sent to the at least one secondary hybrid node using the set of switching wavelengths to the at least one secondary hybrid node via the set of routing wavelengths; and at least one secondary hybrid node coupled to the first hybrid node to receive the switched traffic on the set of switching wavelengths and routed traffic on the set of routing wavelengths, to route the routed traffic using an Internet Protocol (IP), asynchronous transport mode (ATM), or frame relay, and to optically circuit switch the switched traffic and the routed traffic to another secondary node.” In contrast, Ghani fails to disclose at least this embodiment of the claimed invention. Applicant respectfully submits therefore that Ghani fails to show the identical invention in as complete detail as required by M.P.E.P. § 2131 and that claim 20 is thus patentable over Ghani. Applicant respectfully submits that claims 21-23 properly depend from patentable claim 20 and thus are patentable as well. (M.P.E.P. §2143.03.)

#### Rejection of Claims 16, 22, and 23 Under 35 U.S.C. §103(a)

The Examiner rejected claims 16, 22, and 23 under 35 U.S.C. § 103(a) as obvious over Ghani in view of Chang. Applicant respectfully traverses the rejection.

Applicant respectfully submits that claims 16, 22, and 23 properly depend from patentable claims. Claims 16, 22, and 23 thus are patentable as well. (M.P.E.P. §2143.03.)

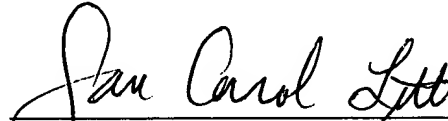
## CONCLUSION

Applicant respectfully submits that all grounds for rejection have been properly traversed and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 7/3/03

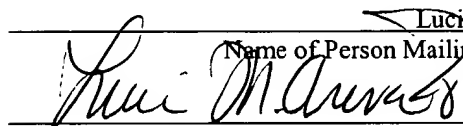


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